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6 IN THE UNITED STATES DISTRICT COURT  
7 FOR THE DISTRICT OF ARIZONA

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9 John P. Wiley, )  
10 Plaintiff, ) No. CIV 02-1126-PHX-NVW (DKD)  
11 vs. )  
12 Terry Stewart, et al., )  
13 Defendants. )  
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16 Pending before the Court is Defendant Aplas' Request that Answer be Accepted as  
17 Timely (Doc. #108). Counsel for Defendants state that due to an oversight by counsel, counsel  
18 failed to file an Answer in a timely manner. Rule 6(b) of the Federal Rules of Civil Procedure  
19 provides that a time period prescribed by the rules may be enlarged for cause upon a motion  
20 made after the expiration of the specified period "where the failure to act was the result of  
21 excusable neglect." The Court finds that Defendant's failure to act was the result of excusable  
22 neglect: Plaintiff has not suffered any prejudice due to the delay, and Defendant has not  
23 engaged in any culpable conduct in failing to file a timely Answer. *See Pioneer Inv. Services*  
24 *Co. v. Brunswick Associates Ltd. Partnership*, 507 U.S. 380, 395 (1993). The Court will  
25 accept Defendants<sup>1</sup> Answer as timely filed.

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<sup>1</sup>Robles and Aplas.

1           **IT IS THEREFORE ORDERED** granting Defendant Aplas' Request that Answer be  
2 Accepted as Timely (Doc. #108).

3           DATED this 3<sup>rd</sup> day of October, 2005.

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7           David K. Duncan  
8           United States Magistrate Judge  
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